

NTSB Order No.
EM-54

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D. C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D. C.
on the 26th day of October 1976.

OWEN W. SILER, Commandant, United States Coast Guard,

v.

EARL LOUIS NELSON, Appellant.

Docket ME-56

ORDER DISMISSING APPEAL

This appeal was taken from a decision of the Commandant issued on March 22, 1976, affirming a 3-month suspension of appellant's license (No. 448865). Previously, appellant had appealed to the Commandant from the initial decision of Administrative Law Judge Archie R. Boggs, rendered after a full evidentiary hearing. Upon review of the hearing record, the Commandant found that appellant's negligence while serving as pilot aboard the M/V GEORGE PRINCE contributed to a collision between his vessel, conducting ferrying operations, and the M/V F. R. BIGELOW and tow on February 4, 1974, in the Mississippi River.

On April 6, 1976 appellant's attorney filed a timely notice of appeal to this Board from the Commandant's decision.¹ The notice sets forth certain grounds of appeal in general terms, stating that they would be "extensively discussed and supported" in a forthcoming brief. However, no such brief has been filed.²

On June 17, counsel for the Commandant moved to dismiss the appeal because of appellant's failure to file a brief, as required

¹Service of the Commandant's decision was effected March 29, 1976.

²49 CFR 825.20(a) provides that: "Within 20 days after the filing of a notice of appeal, the appellant must file... a brief in support of the appeal."

by the Board's rules.³ Although the motion documents include an affidavit of service by certified mail upon the law firm representing appellant, the motion remains unanswered.

It therefore appears the appellant, despite ample opportunities to comply with our rules and perfect his appeal, has failed to do so. The appeal is therefore subject to dismissal.⁴

ACCORDINGLY, IT IS ORDERED THAT:

1. The Commandant's motion be and it hereby is granted; and
2. Appellant's appeal be and it hereby is dismissed.

TODD, Chairman, BAILEY, Vice Chairman, McADAMS, HOGUE, and HALEY, Members of the Board, concurred in the above order.

³49 CFR 825.20(e) provides that, "If a party who has filed a notice of appeal does not perfect the appeal by the timely filing of an appeal brief, the Board may dismiss the appeal on its own initiative or on motion of the Coast Guard."

⁴Commandant v. Peters, 1 N.T.S.B. 2152, Order EA-2, adopted December 2, 1968; Commandant v. Flemmings, Order EM-42; adopted March 20, 1975.